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Board of Vocational Nursing
and Psychiatric Technicians

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7
8 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2007-2091

12 **DIANA ROSE FERNANDEZ MENDOZA**
13 **546 Giles Way**
San Jose, CA 95736
14 **Vocational Nurse License No. VN 225694**

ACCUSATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
19 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
20 Technicians, Department of Consumer Affairs.

21 2. On or about January 31, 2007, the Board of Vocational Nursing and Psychiatric
22 Technicians issued Vocational Nurse License Number VN 225694 to Diana Rose Fernandez
23 Mendoza (Respondent). The Vocational Nurse License was in full force and effect at all times
24 relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric
27 Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.
28

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may discipline
4 the holder of a vocational nurse license for any reason provided in Article 3 (commencing with
5 section 2875) of the Vocational Nursing Practice Act.

6 5. Section 2878 of the Code states:

7 "The Board may suspend or revoke a license issued under this chapter [the Vocational
8 Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

9 "(a) Unprofessional conduct, . . .

10 . . ."

11 6. Title 16, section 2518.5 of the California Code of Regulations, provides:

12 "The licensed vocational nurse performs services requiring technical and manual skills
13 which include the following:

14 "(a) Uses and practices basic assessment (data collection), participates in planning, executes
15 interventions in accordance with the care plan or treatment plan, and contributes to evaluation of
16 individualized interventions related to the care plan or treatment plan.

17 "(b) Provides direct patient/client care by which the licensee:

18 "(1) Performs basic nursing services as defined in subdivision (a);

19 "(2) Administers medications;

20 "(3) Applies communication skills for the purpose of patient/client care and education; and

21 "(4) Contributes to the development and implementation of a teaching plan related to self-
22 care for the patient/client."

23 7. Title 16, section 2518.6 of the California Code of Regulations, provides:

24 "(a) A licensed vocational nurse shall safeguard patients'/clients' health and safety by
25 actions that include but are not limited to the following:

26 "(1) Reporting to the Board acts specified in Sections 2878 and 2878.5 of the Business and
27 Professions Code;

28 "(2) Documenting patient/client care in accordance with standards of the profession; and

1 “(3) Performing services in accordance with Section 125.6 of the Business and Professions
2 Code.

3 “(b) A licensed vocational nurse shall adhere to standards of the profession and shall
4 incorporate ethical and behavioral standards of professional practice which include but are not
5 limited to the following:

6 “(1) Maintaining current knowledge and skills for safe and competent practice;

7 “(2) Maintaining patient/client confidentiality;

8 “(3) Maintaining professional boundaries with the patient/client;

9 “(4) Abstaining from chemical/substance abuse; and

10 “(5) Cooperating with the Board during investigations as required by Section 2878.1 of the
11 Business and Professions Code.

12 “(c) A violation of this section constitutes unprofessional conduct for purposes of initiating
13 disciplinary action.”

14 8. Section 2892.1 of the Code provides, in pertinent part, that the Board may renew an
15 expired license at any time within four years after the expiration.

16 9. Section 118, subdivision (b), of the Code provides that the expiration of a license
17 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
18 within which the license may be renewed, restored, reissued or reinstated.

19 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 FACTUAL BACKGROUND

24 11. During January, 2008, Respondent was employed as a charge nurse at White Blossom
25 Care Center, a skilled nursing facility located in San Jose, California. Respondent was
26 responsible for the care of Resident 8, a 79 year-old female patient who suffered from
27 hypertension, diabetes, chronic atrial fibrillation, severe bilateral peripheral vascular disease,
28 hyperlipidemia, and chronic obstructive pulmonary disease. In October, 2007, Resident 8 had a

1 left below-the-knee amputation. In December, 2007, she underwent a left above-the-knee
2 amputation.

3 12. On or about January 24, 2008, a health facilities evaluator nurse interviewed Resident
4 8 at White Blossom Care Center. The health facilities evaluator nurse found that Resident 8 had
5 necrotic areas on her right leg, right foot, and the fourth finger of her left hand. Resident 8
6 advised the health facilities evaluator nurse that she had banged her right knee two or three weeks
7 prior in the dining room, and that she had told the certified nursing assistant, but that no one had
8 done anything. Respondent was responsible for checking Resident 8's skin for breakdowns on
9 every shift.

10 FIRST CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct)

12 13. Respondent is subject to disciplinary action under section 2878(a) in that Respondent
13 acted unprofessionally when she failed to assess Resident 8 for skin breakdowns on every shift.

14 SECOND CAUSE FOR DISCIPLINE

15 (Failure to Assess)

16 14. Respondent is subject to disciplinary action under section 2878(a) and Title 16,
17 section 2518.5(a) of the California Code of Regulations, in that Respondent failed to perform a
18 basic assessment when she failed to assess Resident 8 for skin breakdowns on every shift.

19 THIRD CAUSE FOR DISCIPLINE

20 (Failure to Safeguard Patient's Health)


21 15. Respondent is subject to disciplinary action under section 2878(a) and Title 16,
22 section 2518.6(a) of the California Code of Regulations, in that Respondent failed to safeguard
23 the health of Resident 8 when she failed to assess her for skin breakdowns on every shift.

24 PRAYER

25
26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
28 issue a decision:

- 1 1. Revoking or suspending Vocational Nurse License Number VN 225694, issued to
- 2 Diana Rose Fernandez Mendoza;
- 3 2. Ordering Diana Rose Fernandez Mendoza to pay the Board of Vocational Nursing
- 4 and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this
- 5 case, pursuant to Business and Professions Code section 125.3;
- 6 3. Taking such other and further action as deemed necessary and proper.

7
8
9 DATED: January 12, 2011


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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